



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

August 12, 2020

Via ECF

Honorable Lewis J. Liman
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *National Audubon Society v. Bernhardt et al.*, 20 Civ. 5065 (LJL)

Dear Judge Liman:

This Office represents defendants David Bernhardt, Aurelia Skipwith, the U.S. Department of the Interior, and the U.S. Fish and Wildlife Service (collectively, “Defendants”) in this matter brought by plaintiff National Audubon Society (“Plaintiff”). I write respectfully on behalf of both parties to request that the parties be relieved of their obligation to file a proposed case management plan, and that the initial conference scheduled for August 21, 2020, be adjourned *sine die*.

In this action, Plaintiff asserts claims under the Administrative Procedure Act and the National Environmental Policy Act. By order dated July 9, 2020, the Court scheduled an initial conference for August 21, 2020, and directed the parties to submit a jointly proposed Case Management Plan and Scheduling Order by one week prior. Dkt. No. 16. However, because this action seeks review of administrative action, the parties understand that it is exempt from the requirement of an initial conference and scheduling order pursuant to Fed. R. Civ. P. 26(a)(1)(B)(i) and (f) and Local Civil Rule 16.1. As a result, and because the parties do not anticipate the need for discovery, the parties respectfully request that the Court relieve them of their obligation to file a proposed Case Management Plan and Scheduling Order and adjourn *sine die* the August 21 conference.¹

Defendants’ deadline for responding to the complaint would ordinarily be September 8, 2020, and Defendants intend to move to dismiss. However, the parties are currently conferring regarding a proposed schedule for motions under Fed. R. Civ. P. 12 and 56. Accordingly, the parties respectfully propose to submit a joint letter by August 21 in which the parties will set out their scheduling proposal(s), either jointly or separately, for motion practice.

¹ One issue that the Court’s Case Management Plan and Scheduling Order addresses that does not relate to a discovery schedule is whether the parties consent to conducting all further proceedings before a U.S. Magistrate Judge. The parties do not so consent.

The parties thank the Court for its consideration of this letter.

Respectfully submitted,

AUDREY STRAUSS
Acting United States Attorney for the
Southern District of New York

By: /s/ Samuel Dolinger
SAMUEL DOLINGER
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel.: (212) 637-2677
E-mail: samuel.dolinger@usdoj.gov

cc: Counsel of record (via ECF)

GRANTED. The initial pretrial conference previously scheduled for August 21, 2020 is ADJOURNED sine die. The parties shall submit a joint letter with their scheduling proposal by August 21, 2020.

SO ORDERED. 8/13/2020.



LEWIS J. LIMAN
United States District Judge